

AMENDED IN SENATE MAY 23, 2005

SENATE BILL

No. 415

Introduced by Senator Alquist

February 17, 2005

~~An act to add Section 1373.15 to the Health and Safety Code, and to add Section 10124.1 to the Insurance Code, relating to health care coverage. An act to amend Section 4800 of, and to add Sections 4806, 4807, and 4808 to, the Probate Code, and to amend Section 12811 of, and to add Section 4602.1 to, the Vehicle Code, relating to advance health care directives, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 415, as amended, Alquist. ~~Prescription drugs: Alzheimer's disease. Advance health care directive.:~~

(1) Existing law establishes the Advance Health Care Directive Registry allowing individuals to register a written advance health care directive with the Secretary of State. The information in the registry, is accessible by specified entities, upon request.

This bill would require the Secretary of State to establish an Internet Web site that would allow an individual to register with the registry, and specified entities to request information from the registry on a 24-hours-a-day, 7-days-a-week basis. The bill would authorize the department to receive voluntary contributions to be deposited in the Advance Health Care Directive Registry Fund created by the bill to support the registry and its activities. This bill would make the fund subject to appropriation by the Legislature.

The bill would require the Department of Motor Vehicles, in conjunction with the State Department of Health Services, the State Department of Social Services, the California Department of Aging,

the Secretary of State, and any other state entity that is involved in advance health care directives to develop a community outreach and education plan to help educate individuals about and to help individuals to execute advance health care directives. The department would be required to implement the plan upon appropriation by the Legislature. The bill would require the department to submit to the Legislature an outreach plan by April 1 of each year. The bill would authorize the department to contract with various entities to implement the plan.

(2) Existing law requires vehicle registrations to be renewed annually. Existing law requires the Department of Motor Vehicles, upon the issuance of an original or a renewal of a driver's license or the issuance of an identification card, to provide information on organ and tissue donation, to collect information on persons who wish to be an organ and tissue donor, and to transmit the information to the California Organ and Tissue Donor Registrar.

The bill would require the Department of Motor Vehicles to provide information of advance health care directives on all applications for an original or a renewal of vehicle registration, an original or a renewal of a driver's license, and an identification card. The bill would require the department to transmit to the Secretary of State information, as specified, on individuals who wish to enroll in the Advance Health Care Directive Registry. The bill would authorize the department to collect a voluntary contribution of \$2 from individuals seeking to obtain an original vehicle registration, driver's license, or identification card, or a renewal of a vehicle registration or driver's license for the purpose of promoting and supporting the Advance Health Care Directive Registry. The bill would authorize the department to deduct not more than ____ percent of the voluntary contribution to cover the department administrative costs in providing, collecting, and transmitting the information regarding the advance health care directives.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act a crime. Existing law also provides for the licensure and regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan and a health~~

~~insurance policy that include coverage for prescription drugs must comply with certain conditions with regard to providing that benefit.~~

~~This bill would require a health care service plan and a health insurance policy providing coverage for prescription drugs, to include medications in that benefit for the treatment of Alzheimer's disease.~~

~~Because the bill would specify an additional requirement for health care service plans, the violation of which would be a crime, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~^{no}.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares the
- 2 following:
- 3 (a) It is important for individuals to be informed about their
- 4 right to make health care decisions and how advance planning
- 5 can help ensure that an individual can speak for himself or
- 6 herself before he or she becomes incapacitated.
- 7 (b) Advance health care directives are written legal documents
- 8 that allow a person to decide and to clearly delineate whether he
- 9 or she would like to be kept on artificial life support in its various
- 10 forms if he or she is ever permanently unconscious or otherwise
- 11 incapacitated and nearing the end of life.
- 12 (c) There are two types of advance health care directives: a
- 13 durable power of attorney for health care (durable power) that
- 14 allows one to name a "patient advocate" to act on one's behalf
- 15 to carry out one's wishes, and a living will that allows one to
- 16 state, in writing, one's wishes regarding health care decisions
- 17 but does not name a patient advocate.
- 18 (d) Many people know about the kind of medical care they
- 19 would like to receive or refuse in certain circumstances and an
- 20 advance health care directive allows them to clearly state their
- 21 feelings and wishes.

1 (e) *The policies of most hospital and health care systems*
2 *provide that only a competent patient, not friends or family, can*
3 *make health care decisions.*

4 (f) *End-of-life treatment decisions are difficult to make, but*
5 *Californians need to be encouraged to think about their wishes in*
6 *advance, discuss options with family, friends, and health care*
7 *professionals, and make plans for future health care needs.*

8 (g) *Advance health care directives can serve to benefit all*
9 *Californians, if they are given the chance to be informed about it.*

10 (h) *Alarming few people in the state have executed advance*
11 *health care directives.*

12 (i) *An advance expression of health care values would greatly*
13 *benefit the individuals, their families, and the health care system*
14 *in providing care.*

15 (j) *It is in the best interest of Californians to be presented with*
16 *options related to advance health care directives, instructions on*
17 *executing an advance health care directive, a place where the*
18 *advance health care directives could be stored confidentially,*
19 *and be electronically accessible to hospitals and health care*
20 *systems, and a public outreach campaign to make Californians*
21 *aware of their right to choose the health care they want.*

22 (k) *The Department of Motor Vehicles' existing relationship*
23 *with the majority of the adult population in the state has allowed*
24 *the state to inform the public regarding programs such as organ*
25 *and tissue donation through the department, which has*
26 *successfully facilitated the awareness and promotion of organ*
27 *donor information and opportunities that have greatly benefitted*
28 *the state.*

29 SEC. 2. *Section 4800 of the Probate Code is amended to*
30 *read:*

31 4800. (a) The Secretary of State shall establish a registry
32 system through which a person who has executed a written
33 advance health care directive may register in a central
34 information center, information regarding the advance directive,
35 making that information available upon request to ~~any~~ a health
36 care provider, the public guardian, or the legal representative of
37 the registrant on a 24-hours-a-day, seven-days-a-week basis. A
38 request for information pursuant to this section shall state the
39 need for the information.

(b) The Secretary of State shall respond by the close of business on the next business day to a request for information made pursuant to Section 4717 by the emergency department of a general acute care hospital.

(c) Information that may be received *by the Secretary of State for registration* is limited to the registrant's name, social security number, driver's license number, or other individual identifying number established by law, if any, address, date and place of birth, the registrant's advance health care directive, an intended place of deposit or safekeeping of a written advance health care directive, ~~and the name and telephone number of the agent and any alternative agent, and persons or entities authorized to receive the registrant's information.~~ Information that may be released *by the secretary* upon request may not include the registrant's social security number except when necessary to verify the identity of the registrant.

~~(d) When the Secretary of State receives~~ *The Secretary of State shall establish an Internet Web site that would allow an individual to register with the registry and would allow a health care provider, the public guardian, or the legal representative of a registrant or the emergency department of a general acute care hospital to request information from the registry pursuant to subdivision (a) or (b).*

(e) ~~Upon receiving~~ information from a registrant, ~~the secretary~~ *Secretary of State* shall issue to the registrant an Advance Health Care Directive Registry identification card indicating that an advance health care directive, or information regarding an advance health care directive, has been deposited with the registry. Costs associated with issuance of the card shall be offset by the fee charged by the Secretary of State to receive and register information at the registry.

~~(e)~~

(f) The Secretary of State, at the request of the registrant or his or her legal representative, shall transmit the information received regarding the written advance health care directive to the registry system of another jurisdiction as identified by the registrant, or his or her legal representative.

~~(f)~~

(g) The Secretary of State shall charge a fee to each registrant in an amount such that, when all fees charged to registrants are

1 aggregated, the aggregated fees do not exceed the actual cost of
2 establishing and maintaining the registry.

3 *SEC. 3. Section 4806 is added to the Probate Code, to read:*

4 *4806. The Secretary of State may receive voluntary*
5 *contributions to support the registry and its activities. The*
6 *contributions shall be deposited in the Advance Health Care*
7 *Directive Registry Fund which is hereby created in the State*
8 *Treasury. Expenditures from the fund shall be subject to*
9 *appropriation by the Legislature and shall be for the sole*
10 *purpose of providing support for the registry and its activities.*

11 *SEC. 4. Section 4807 is added to the Probate Code, to read:*

12 *4807. The Secretary of State shall submit to the Director of*
13 *Health Services and the Legislature an annual report that*
14 *includes all of the following:*

15 *(a) The number of advance health care directives on the*
16 *registry.*

17 *(b) The changes in the number of advance health care*
18 *directives on the registry.*

19 *(c) Other information that would assist the secretary in*
20 *registering more advance health care directives.*

21 *SEC. 5. Section 4808 is added to the Probate Code, to read:*

22 *4808. (a) The Department of Motor Vehicles, in conjunction*
23 *with the State Department of Health Services, the State*
24 *Department of Social Services, the California Department of*
25 *Aging, the Secretary of State, and any other state entity that has*
26 *an interest in advance health care directives, shall develop a*
27 *community outreach and education plan to help individuals to*
28 *learn about and how to execute advance health care directives.*

29 *(b) An annual outreach and education plan shall be submitted*
30 *to the Legislature on or before April 1 of each year. The plan*
31 *shall address the value of the advance health care directives and*
32 *shall include, but is not limited to, all of the following:*

33 *(1) Specific milestones and objectives to be completed for the*
34 *upcoming year and their anticipated costs.*

35 *(2) A general description of each strategy or method to be*
36 *used for outreach.*

37 *(3) The geographic areas and special populations to be*
38 *targeted, if any, and why the special targeting is needed.*

39 *(4) Coordination with other state or local outreach and*
40 *education efforts.*

1 (5) *The results of the previous year's outreach and education*
2 *efforts.*

3 (c) *The Department of Motor Vehicles shall implement the*
4 *outreach and education plan, upon appropriation by the*
5 *Legislature of funds for that purpose.*

6 (d) (1) *In implementing the outreach and education plan, the*
7 *Department of Motor Vehicles may seek input from, and may*
8 *contract with, various entities and programs, including, but not*
9 *limited to, community-based organizations.*

10 (2) *Contracts, if awarded, for implementing the outreach and*
11 *education plan shall be awarded based on, but not limited to, all*
12 *of the following criteria:*

13 (A) *A capacity to reach a variety of populations or geographic*
14 *areas.*

15 (B) *Organizational capacity and experience.*

16 (C) *Ability to provide culturally and linguistically appropriate*
17 *information regarding advance health care directives.*

18 (D) *Ability to identify and address barriers to advance health*
19 *care directives.*

20 (E) *Ability to coordinate with other outreach and education*
21 *efforts in the community, including, but not limited to, the*
22 *statewide health and social service related programs.*

23 SEC. 6. *Section 4602.1 is added to the Vehicle Code, to read:*

24 4602.1. (a) *Upon issuance of an original or a renewal*
25 *vehicle registration, the department shall provide information on*
26 *advance health care directives, including, but not limited to, an*
27 *enrollment form developed pursuant to subdivision (f) to be filled*
28 *out by an individual who wishes to register with the Advance*
29 *Health Care Directive Registry established pursuant to*
30 *subdivision (a) of Section 4800 of the Probate Code.*

31 (b) *The department shall collect advance health care directive*
32 *designation information accompanying all applications for the*
33 *issuance or an original or a renewal vehicle registration.*

34 (c) *The department shall electronically transmit, on a monthly*
35 *basis, information collected under this section to the Secretary of*
36 *State.*

37 (d) (1) *A person who applies for the issuance of an original or*
38 *a renewal vehicle registration may designate a voluntary*
39 *contribution of two dollars (\$2) for the purpose of promoting and*
40 *supporting the Advance Health Care Directive Registry. This*

1 contribution shall be collected by the department and treated as
2 a voluntary contribution to the Advance Health Care Directive
3 Registry and not as a fee for the issuance of the vehicle
4 registration.

5 (2) The department may use not more than ____ percent of the
6 donations collected under paragraph (1) to cover its actual
7 administrative costs incurred in implementing subdivisions (a),
8 (b), and (c). The department shall transmit the remainder of
9 those revenues to the Secretary of State for deposit into the
10 Advance Health Care Directive Registry Fund established
11 pursuant to Section 4806 of the Probate Code.

12 (e) The department's application forms for the issuance of an
13 original and a renewal vehicle registration shall include
14 information directing a person who desires to change his or her
15 advance health care directive status to the Advance Health Care
16 Directive Registry's Internet Web site.

17 (f) The registry enrollment form shall be simple in design and
18 shall be developed by the department, in cooperation with the
19 Secretary of State, and shall include all of the following:

20 (1) The information specified in subdivision (c) of Section
21 4800 of the Probate Code.

22 (2) A description of the process for removing one's name from
23 the Advance Health Care Directive Registry.

24 (3) A description of the process for donating money for the
25 benefit of the Advance Health Care Directive Registry.

26 (4) A statement that the name of the enrollee shall be made
27 available to a federally recognized advance health care directive
28 organization.

29 (g) The registry enrollment form shall be posted on the
30 Internet Web sites for the department and the California Health
31 and Human Services Agency.

32 (h) The enrollment shall constitute a legally binding
33 document.

34 (i) The Secretary of State shall ensure that all additions and
35 deletions to the registry occur within 30 days of receipt.

36 (j) Except as provided in paragraph (4) of subdivision (f) or
37 Section 4800 of the Probate Code, information obtained by the
38 Secretary of State pursuant to this section shall not be
39 disseminated by the secretary.

1 (k) A public entity or employee shall not be liable for any loss,
2 detriment, or injury resulting directly or indirectly from false or
3 inaccurate information contained in the form provided pursuant
4 to this section.

5 SEC. 7. Section 12811 of the Vehicle Code is amended to
6 read:

7 12811. (a) (1) (A) When the department determines that the
8 applicant is lawfully entitled to a license, it shall issue to the
9 person a driver's license as applied for. The license shall state the
10 class of license for which the licensee has qualified and shall
11 contain the distinguishing number assigned to the applicant, the
12 date of expiration, the true full name, age, and mailing address of
13 the licensee, a brief description and engraved picture or
14 photograph of the licensee for the purpose of identification, and
15 space for the signature of the licensee.

16 (B) Each license shall also contain a space for the endorsement
17 of a record of each suspension or revocation thereof.

18 (C) The department shall use whatever process or processes, in
19 the issuance of engraved or colored licenses, that prohibit, as
20 near as possible, the ability to alter or reproduce the license, or
21 prohibit the ability to superimpose a picture or photograph on the
22 license without ready detection.

23 (2) In addition to the requirements of paragraph (1), a license
24 issued to a person under 18 years of age shall display the words
25 "provisional until age 18."

26 (b) (1) Upon issuance of a new driver's license or a renewal
27 of a driver's license or the issuance of an identification card, the
28 department shall provide information on organ and tissue
29 donation, including a standardized form to be filled out by an
30 individual who desires to enroll in the California Organ and
31 Tissue Donor Registry with instructions for mailing the
32 completed form to the California Organ and Tissue Donor
33 Registrar established pursuant to subdivision (a) of Section
34 7152.7 of the Health and Safety Code, including a donor dot that
35 may be affixed to the new driver's license or identification card.

36 (2) The enrollment form shall be simple in design and shall be
37 produced by the department in cooperation with the California
38 Organ and Tissue Donor Registrar and shall require all of the
39 following information to be supplied by an enrollee:

1 (A) Date of birth, sex, full name, and other information
2 deemed necessary to provide a positive identification of an
3 individual.

4 (B) Consent for organs or tissues to be donated for transplant
5 after death.

6 (C) Any limitation of the donation to specific organs or
7 tissues.

8 (3) The form shall also include both of the following:

9 (A) A description of the process for having a name removed
10 from the registry, and the process for donating money for the
11 benefit of the registry.

12 (B) A statement that the name of any person who enrolls in the
13 registry pursuant to this section shall be made available to
14 federally recognized donor organizations.

15 (4) The registry enrollment form shall be posted on the Web
16 sites for the department and the California Health and Human
17 Services Agency.

18 (5) The form shall constitute a legal document under the
19 Uniform Anatomical Gift Act (Chapter 3.5 (commencing with
20 Section 7150) of Part 1 of Division 7 of the Health and Safety
21 Code) and shall remain binding after the donor's death despite
22 any express desires of next of kin opposed to the donation.

23 (6) The registrar shall ensure that all additions and deletions to
24 the registry shall occur within 30 days of receipt.

25 (7) Information obtained by the registrar for the purposes of
26 this subdivision shall be used for these purposes only and shall
27 not be disseminated further by the registrar.

28 *(c) (1) Upon issuance of a new driver's license or renewal of*
29 *a driver's license or the issuance of an identification card, the*
30 *department shall provide information on advance health care*
31 *directives, including an enrollment form developed pursuant to*
32 *paragraph (7) to be filled out by an individual who desires to*
33 *register with the Advance Health Care Directive Registry*
34 *established pursuant to subdivision (a) of Section 4800 of the*
35 *Probate Code.*

36 *(2) The department shall collect advance health care directive*
37 *designation information on all applications for an original or a*
38 *renewal driver's license or an identification card.*

1 (3) *The department shall electronically transmit, on a monthly*
2 *basis, the advance health care directive designation information*
3 *to the Secretary of State.*

4 (4) *The department shall print the term “AD” or another*
5 *appropriate designation on the face of the driver’s license or*
6 *identification card issued after January 1, 2006, to a person who*
7 *submitted an enrollment form pursuant to this subdivision.*

8 (5) (A) *A person who applies for an original or a renewal*
9 *driver’s license or an identification card may designate a*
10 *voluntary contribution of two dollars (\$2) for the purpose of*
11 *promoting and supporting the Advance Health Care Directive*
12 *Registry. This contribution shall be collected by the department,*
13 *and treated as a voluntary contribution to the registry and not as*
14 *a fee for the issuance of a driver’s license or an identification*
15 *card.*

16 (B) *The department may use not more than ____ percent of the*
17 *donations collected under subparagraph (A) to cover its actual*
18 *administrative costs incurred under paragraphs (2) and (3). The*
19 *department shall transmit the remainder of those revenues to the*
20 *Secretary of State for deposit into the Advance Health Care*
21 *Directive Registry Fund established pursuant to Section 4806 of*
22 *the Probate Code.*

23 (6) *The department’s application forms for the issuance of*
24 *original and renewal driver’s licenses and identification cards*
25 *shall include information directing a person who desires to*
26 *change his or her status to the Advance Health Care Directive*
27 *Registry’s Internet Web site.*

28 (7) *The registry enrollment form shall be simple in design and*
29 *shall be developed by the department, in cooperation with the*
30 *Secretary of State and shall include all of the following*
31 *information:*

32 (A) *The information specified in subdivision (c) of Section*
33 *4800 of the Probate Code.*

34 (B) *A description of the process for having one’s name*
35 *removed from the Advance Health Care Directive Registry.*

36 (C) *A description of the process for donating money for the*
37 *benefit of the Advance Health Care Directive Registry.*

38 (D) *A statement that the name of the enrollee shall be made*
39 *available to a federally recognized advance health care directive*
40 *organization.*

1 (8) The enrollment shall constitute a legally binding
2 document.

3 (9) The Secretary of State shall ensure that all additions and
4 deletions to the Advance Health Care Directive Registry occur
5 within 30 days of receipt.

6 (10) Except as provided subparagraph (D) of paragraph (7) of
7 this subdivision or Section 4800 of the Probate Code,
8 information obtained by the Secretary of State pursuant to this
9 subdivision shall not be disseminated by the secretary.

10 ~~(e)~~

11 (d) A public entity or employee shall not be liable for any loss,
12 detriment, or injury resulting directly or indirectly from false or
13 inaccurate information contained in the form provided pursuant
14 to subdivision (b) or (c).

15 ~~(d)~~

16 (e) A contract shall not be awarded to any nongovernmental
17 entity for the processing of driver's licenses, unless the contract
18 conforms to all applicable state contracting laws and all
19 applicable procedures set forth in the State Contracting Manual.

20 SEC. 8. This act is an urgency statute necessary for the
21 immediate preservation of the public peace, health, or safety
22 within the meaning of Article IV of the Constitution and shall go
23 into immediate effect. The facts constituting the necessity are:

24 In order to increase as expeditiously as possible, the public's
25 awareness of the Advance Health Care Directive Registry, it is
26 necessary that this act take effect immediately.

27 SECTION 1. ~~(a) The Legislature finds and declares the~~
28 ~~following:~~

29 ~~(1) A class of medications called cholinesterase inhibitors has~~
30 ~~been shown to be effective in slowing the progress of~~
31 ~~Alzheimer's disease when utilized early in the onset of symptoms~~
32 ~~of dementia.~~

33 ~~(2) Studies have shown that these medications can allow a~~
34 ~~person to maintain a relatively normal life and avoid institutional~~
35 ~~care for nine months to a year.~~

36 ~~(3) In addition to avoiding institutional care, the improved~~
37 ~~quality of life for those suffering from Alzheimer's disease~~
38 ~~results in an improved quality of life for their family caregivers~~
39 ~~allowing the caregivers to continue to work more productively~~
40 ~~and to avoid the stress, depression, and other problems~~

1 commonly associated with having a family member suffering
2 from Alzheimer's disease.

3 (4) Notwithstanding the demonstrated effectiveness and
4 cost-effectiveness of these medications, some health care service
5 plans and health insurers have not included coverage for these
6 medications in their prescription drug formularies.

7 (b) It is the intent of the Legislature to rectify this omission.

8 SEC. 2. Section 1373.15 is added to the Health and Safety
9 Code, to read:

10 1373.15. Every health care service plan contract that provides
11 prescription drug benefits, except a specialized health care
12 service plan contract, that is issued, amended, renewed, or
13 delivered in this state on or after July 1, 2006, shall include in its
14 prescription drug formularies, cholinesterase inhibitors and other
15 medications approved by the federal Food and Drug
16 Administration for the treatment of Alzheimer's disease.

17 SEC. 3. Section 10124.1 is added to the Health and Safety
18 Code, to read:

19 10124.1. Every group or individual policy of health insurance
20 that provides hospital, medical, or surgical benefits that is issued,
21 amended, renewed, or delivered in this state on or after July 1,
22 2006, that also includes a prescription drug benefit, shall offer
23 coverage for cholinesterase inhibitors and other medications
24 approved by the federal Food and Drug Administration for the
25 treatment of Alzheimer's disease.

26 SEC. 4. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the
31 penalty for a crime or infraction, within the meaning of Section
32 17556 of the Government Code, or changes the definition of a
33 crime within the meaning of Section 6 of Article XIII B of the
34 California Constitution.